

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0075P

Gross Income Tax
Calendar Years 1996 and 1997

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Florida and has two Indiana business locations. Taxpayer was acquired by company X in December 1997.

Taxpayer incorrectly reported services income in low rate income. Company X protests the penalty because it was unaware the returns were improperly prepared. Company X further states it correctly reports its income at the high rate of tax since acquisition.

At audit it was determined that the taxpayer reported high rate income at the lower rate. The audit assessed a ten-percent negligence penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report receipts at the high rate of tax. Company X, a successor corporation, protested penalties assessed against an acquired corporation. Company X states it has correctly reported receipts at the high rate of tax since it acquired taxpayer in December 1997 and was unaware that taxpayer's previous accounting firm improperly classified the income as low rate income on the 1996 and 1997 returns.

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Delegation of authority does not relieve the taxpayer of the duty to monitor the delegated functions. Company X as successor, is liable to taxpayer's previous errors and omissions.

Taxpayer has not provided reasonable cause to allow the department to waive the negligence penalty.

FINDING

Taxpayer's protest is denied.

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